

Docket 96-198



Federal Communications Commission
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

The Honorable Jim McCrery
U.S. House of Representatives
2104 Rayburn House Office Building
Washington, D.C. 20515-1805

Dear Congressman McCrery:

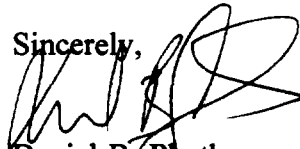
This is in response to your letter on behalf of your constituents regarding the Commission's implementation of Section 255 of the Communications Act (Section 255), added by the Telecommunications Act of 1996. Section 255 requires that telecommunications equipment manufacturers and service providers must ensure that their equipment and services are accessible to persons with disabilities, to the extent that it is readily achievable to do so. In adopting Section 255, Congress gave the Commission two specific responsibilities, to exercise exclusive jurisdiction with respect to any complaint filed under Section 255, and to coordinate with the Architectural and Transportation Barriers Compliance Board (Access Board) in developing guidelines for the accessibility of telecommunications equipment and customer premises equipment.

The Commission adopted a Notice of Inquiry in September 1996, initiating WT Docket 96-198 and seeking public comment on a range of general issues central to the Commission's implementation of Section 255. The Commission also adopted a Notice of Proposed Rule Making (NPRM) in April 1998, which sought public comment on a proposed framework for that implementation. The NPRM examined the Commission's legal authority to establish rules implementing Section 255, including the relationship between the Commission's authority under Section 255 and the guidelines established by the Access Board in February 1998. The NPRM further solicited comment on the interpretation of specific statutory terms that are used in Section 255, including certain aspects of the term "readily achievable," and the scope of the term "telecommunications services." In addition, the NPRM sought comment on proposals to implement and enforce the requirement that telecommunications equipment and services be made accessible to the extent readily achievable. The centerpiece of these proposals was a "fast-track" process designed to resolve many accessibility problems informally, providing consumers with quick solutions.

It is important to note that the Commission has not issued a final decision regarding any of the proposals suggested in the NPRM. The record in this proceeding closed on August 14, 1998, and the Commission staff is currently reviewing public comments. Since the passage of Section 255, the Commission has worked closely with the Access Board and with various commenters to design an implementation framework that best reflects the intent of Congress in adopting Section 255. The Commission has received numerous comments expressing the same views as those expressed by your constituents. These comments are included in the record of WT Docket 96-198, and will be carefully considered

before final action is taken on this critically important matter. I appreciate all input as a way of establishing as thorough and representative a record as possible on which to base final rules implementing Section 255.

Sincerely,

A handwritten signature in black ink, appearing to read 'Daniel B. Phythyon', written over the printed name.

Daniel B. Phythyon
Chief, Wireless Telecommunications Bureau

JIM MCCRERY
4TH DISTRICT, LOUISIANA

COMMITTEE ON WAYS AND MEANS
SUBCOMMITTEE ON HEALTH
SUBCOMMITTEE ON HUMAN RESOURCES

Congress of the United States
House of Representatives
Washington, DC 20515-1805

September 17, 1998

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Tele Act 96
7565*

Mr. William Kennard, Chairman
Federal Communications Commission
1919 M Street, NW
Washington, DC 20554

Dear Chairman Kennard:

I am writing to share the views of my constituents, Mrs. Peggy Thompson and Mr. Frederic Goulston, regarding an FCC proposal implement Section 255 of the 1996 Telecommunications Act.

Enclosed please find a copy of their letters explaining their positions on this proposal. I ask that you give their views every possible consideration when considering the proposed rule.

Your assistance in this matter is greatly appreciated. I look forward to reviewing your timely response.

With kindest regards, I am

Sincerely yours,


JIM MCCRERY
Member of Congress

JOM:cak

McCrery, Jim

From: Alan Thompson(SMTP:pthom@softdisk.com)
Sent: Sunday, July 12, 1998 8:36 PM
To: McCrery, Jim
Subject: FCC Changes to Telecommunications Act

July 11, 1998

Mrs. Peggy Thompson
517 Oriole Lane
Shreveport, LA 71105

The Honorable Jim McCrery
U.S. House of Representatives
Washington, D.C. 20515

Re: FCC Notice of Proposed Rulemaking for Section 255
(Telecommunications Act of 1996)

Dear Representative McCrery,

It has recently come to my attention that the Federal Communications Commission is proposing changes in the Telecommunications Act of 1996 which undermine the intent of Congress and which will be especially detrimental to people who have a hearing loss.

I am writing to urge you to contact William E. Kennard, Chairman of the FCC and ask him to reconsider some of the changes which he has proposed to the Telecommunications Act. There are four areas of concern to all people with disabilities.

1. The FCC needs to abide by the Access Board guidelines for manufacturers and service providers published in February 1998. Conclusive wording to that effect is needed. In my work, it is terribly discouraging to me that it is so hard for people with a hearing loss have such a hard time finding equipment which they can use in the open market.
2. When the Telecommunications Act was first proposed by Congress, the term "readily achievable" was adopted from the Americans with Disabilities Act (ADA) to delineate a company's requirements to make their products accessible. Companies are not required to undertake any modifications which might be detrimental financially.

However, the FCC proposes to change the wording dramatically by introducing the concept of "cost recovery". Thus, a company will be able to decide what services to provide based on whether or not it will recover the costs of the increased accessibility. As stated above, if an this causes an entity would not have to comply if the cost would have a detrimental effect. The effect on the consumer, however, would be like having an HMO turn down a valid request.

It is my opinion that if this is put into effect, it would greatly hinder accessibility to present and future products. For instance, most analog cell phones still do not have a telecoil for people who use hearing aids because they were not originally mandated for cellular telephones. If the proposed "cost recovery" goes into effect there will be even less likelihood that manufacturers and providers will produce products which I will be able to use and I think this will lead to many people having more limitations places on them. I do not believe this was the intent of Congress.

- 3 Another change that the FCC proposes is that in the event of a complaint,

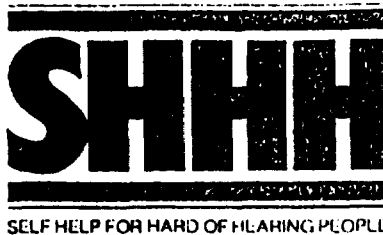
the FCC will decide whether the individual will get to take their case to court. It seems very unfair to me that the FCC could automatically prevent me from filing a complaint and have a hearing. Although I have never filed a complaint, I would like to be able seek redress in this area of my life as in all other areas should the need arise.

4 Finally, the FCC wants to omit "enhanced services from coverage under Section 255. These are services such as voice mail and automated voice response systems. These services are inaccessible now to people who are Deaf or hard of hearing because even the Relay operators cannot type fast enough to keep up with the messages.

If these services continue to be unaccessible, it will affect employment opportunities, education and interfere with full participation in today's society. A solution to this problem would be to have an "automatic out" that would connect the caller to a real live person. Of course, this modification would be useful to everyone.

AGAIN, I urge you to contact William E. Kennard, Chairman of the FCC by July 15, 1998 about these issues. Your help will be greatly appreciated.

Regards,
Peggy Thompson



NORTHWEST LOUISIANA CHAPTER

4411 Steere Drive
Shreveport, LA 71105

July 11, 1998

The Honorable James McCrery
2104 Rayburn Building
Washington, D.C. 20515

Dear Congressman McCrery

The purpose of this letter is to call your attention to the recent actions of the Federal Communications Commission regarding several major changes to the Telecommunications Act of 1996. I'm sure you have some knowledge as to their scope and nature.

Simply stated, these changes, if implemented, will work to the detriment of all people covered under the Americans with Disabilities Act. My wife and I are both hearing-impaired, and do not look forward to the results FCC's arbitrary actions will impose.

Again portions of the public are being victimized by what now can now be called the HMO Syndrom. Again, we, the public, are being faced with the battle between adequate patient care and the "bottom line (cost-effectiveness)".

As your constituent, I'm requesting that you contact the appropriate committee and have them thoroughly study these changes. Further, I would like you to determine for yourself whether or not my fears are justified.

Thank you for your consideration.

Sincerely

Frederic P. Goulston
Frederic P. Goulston

P.S. As President of this organization, I express the concern of all our members

12/12/98